IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1189/98

Bhim Singh **Versus** State

DATE OF ORDER :: 25/09/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. N.A. Naqvi, for petitioner
Mr. Arun Sharma, Public Prosecutor for State

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Instant petition has been filed assailing the order taking cognizance against accused-petitioner for offence u/ss.279, 337 & 338 IPC and the revision preferred by him was dismissed by Court of Revision vide order dated 20th August, 1998 only on the premise that issue of limitation provided u/s.468 of Code was not raised by him. However, liberty was granted to him to raise the same by filing application before learned trial Judge.

Basic contention advanced by counsel for petitioner is that period of limitation provided u/s.468 of Code will be computed from the date learned trial Judge took cognizance against him and mere filing of complaint for alleged incident is immaterial and is of no legal significance so far as it relates to computing period of limitation provided u/s.468 of Code is concerned.

In the instant petition, the alleged incident took place on 20th December, 1993 and the written complaint filed by him was registered on 3rd January, 1994, but after investigation, negative Final Report was submitted and learned trial Judge took cognizance against accused-petitioner on 13th January, 1997. Since it was more than 3 years from the date of alleged incident on which learned trial Judge took cognizance, his thrust of submission was that since period of limitation has expired, the very cognizance taken against him in the facts of instant case is not legally sustainable. Counsel has fairly submitted that the scope of Section 468 Cr.P.C. has been examined by the Apex Court in **Japani Sahoo Vs. Chandra Sekhar Mohanty [2007 (3) Crimes-246 (SC)**.

Controversy raised in the instant petition has been put to rest by Apex Court and in **Japani Sahoo Vs. Chandra Sekhar Mohanty** (supra), it has been observed as under:

> “In view of the above, we hold that for the purpose of computing the period of limitation, the relevant date must be considered as the date of filing of complaint or initiating criminal proceedings and not the date of taking cognizance by a Magistrate or issuance of process by a Court. We, therefore, overrule all decisions in which it has

been held that the crucial date for computing the period of limitation is taking of cognizance by the Magistrate/Court and not of filing of complaint or initiation of criminal proceedings".

In view of legal position settled by Apex Court in **Japani Sahoo Vs. Chandra Sekhar Mohanty** (supra), this petition does not hold good and accordingly, dismissed. However, petitioner will be at liberty to raise all objections available to him under law before learned trial Judge. Record be sent back to trial court.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.